

## WASHINGTON STATE GAMBLING COMMISSION

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### MINUTES COMMISSION MEETING THURSDAY, NOVEMBER 17, 1994

**Chairman Tull** called the meeting to order at 1:35 p.m. at the Ridpath Hotel, Spokane, Washington.

**MEMBERS PRESENT:**                      **ROBERT M. TULL, Chairman; WANDA MOSBARGER, Vice Chair, and EDWARD HEAVEY.**

**OTHERS PRESENT:**                      **FRANK L. MILLER, Director; BEN BISHOP, Deputy Director; CARRIE SUTHERLAND, Special Assistant, Public Affairs; SHERRI WINSLOW, Assistant Director, Field Operations; JONATHAN McCOY, Assistant Attorney General; SHARON TOLTON, Assistant Director, Special Operations; and SUSAN GREEN, Executive Assistant.**

**Director Miller** requested an executive session following this public session to brief the Commissioners on pending litigation.

#### **LICENSE APPROVALS** **NEW LICENSES, CHANGES, WITHDRAWALS, and TRIBAL CERTIFICATIONS**

**Commissioner Heavey** moved for approval of the list as printed; **Commissioner Mosbarger** seconded the motion; motion carried with three aye votes.

#### **REVIEW OF FRIDAY'S AGENDA**

**Ms. Sutherland** said there are 17 rules up for final action on tomorrow's agenda; four have to do with punchboard/pull-tab retention requirements and 12 are housekeeping changes referencing the new fee schedule, and one rule pertains to drawings conducted at bingo games. There is also continued discussion of the petition on the agenda by the Washington State Association of County Treasurers. Staff has discussed this petition further with this group and there is an addendum that is provided to the Commissioners and available to the public. She said Bob Racicot of The Shed will be here for tomorrow's public session and would like to address the Commission regarding its order of April 1994 and a possible reduction in the fine that was ordered.

#### **DEFAULT HEARINGS**

##### **CLASS III TRIBAL GAMING CERTIFICATION -- REVOCATION:**

**Joseph D. Wagner, Class III Tribal Gaming Employee; CR 94-0673**

**Jamie S. Bagley, Class III Tribal Gaming Employee; CR 94-0795**

**Arthur L. Hatch, III, Class III Tribal Gaming Employee; CR 94-0754**

## **Alan D. Gibbs, Class III Gaming Employee; CR 94-0755**

**Commissioner Heavey** moved to adopt these four default orders in accordance with staff recommendation and revoke the Class III certifications of each of these individuals; **Chairman Tull** seconded the motion, motion carried.

### **FOLLOW-UP REVIEW**

#### **Michael Ray Ealy, d/b/a Sidetrack Pub & Eatery, Seattle, CR 92-1476**

**Ms. Sutherland** said action was taken by the Commission in January 1993. There was a statement of charges for revocation of the punchboard/pull tab license held by the Sidetrack Pub and Eatery for failure to pay gambling taxes. The administrative law judge who heard the case ordered revocation of the license indefinitely until such time as the licensee demonstrates to the satisfaction of the Commission that all gambling taxes assessed had been paid in full. The Commission heard a petition for review on May 10th and upheld the order of revocation conditioned on the following: Mr. Ealy must continue to pay all taxes due; he must continue to make substantial progress towards repayment of the tax arrearages; and must report to the Commission on a monthly basis gross receipts from gambling, the amount of current taxes paid and the amount of tax arrearages paid to local authorities. The Commission has reviewed this case twice previously; in November 1993 and again in April 1994. On both occasions, Mr. Ealy had remained current on taxes owed and had made substantial progress in reducing his tax arrearages. The tax arrearages were originally \$18,000 and were reduced to approximately \$6,000. His business is currently up for sale and the new owner has applied for a gambling license. King County revenue officer Linda Nelson recommends revocation of Mr. Ealy's license because he has not continued to make payments toward the arrearages; staff supports this recommendation.

**Chairman Tull** asked if the escrow officer has any idea when the sale will close; **Ms. Sutherland** said they don't have a definite date and it is not pending the granting of a gambling license. She said the earnest money was paid quite awhile ago and it seems the papers just need to be signed; and when the sale closes, the tax liens will be paid. **Chairman Tull** asked if current taxes are still current; **Ms. Sutherland** said yes. **Director Miller** said he has made no payments on back taxes since April.

**Commissioner Mosbarger** said it was the Commission's order that he continue making back payments; **Director Miller** said Mr. Ealy has not explained to the Commission staff why he stopped making back payments. **Ms. Sutherland** said Mr. Ealy was sent a letter two weeks ago stating that this review and action would be occurring today and he did not respond.

**Chairman Tull** said he remembers this case from the June 1993 Commission meeting and he's impressed by the fact that the licensee has not contacted the Commission, meaning he has reverted to a casual attitude toward this issue and his obligations.

**Commissioner Mosbarger** moved for to impose the stayed revocation of Mr. Ealy's license, and said she felt the Commission was very generous at the time; **Chairman Tull** seconded the motion. **Commissioner Heavey** said, absent some communication of the person who is buying this business, he amended the motion to say "effective 30 days following the date of the entry of the order," so that they either close the sale, pay the taxes, or shut down. **Chairman Tull** seconded the amended motion; motion carried with three aye votes. An order will be prepared and entered as soon as possible.

### **QUALIFICATION REVIEWS**

**PROGRAM REVIEW/presentation:  
EDUCATIONAL INSTITUTE FOR RURAL FAMILIES**

**Ms. Winslow** said there is a report provided to the Commission regarding this review. The group was up for license renewal at the August 11, 1994, Commission meeting and there were concerns and questions raised by commissioners at that presentation concerning the number of recipients and the type of program services provided. Salary levels and the number of bingo managers were also areas of concern. The report today encompasses an overview of their program services, history, structure, wages paid, and contains comparative information.

**Ms. Winslow** said this organization is a charitable educational nonprofit corporation, with a Class "I" bingo license and a Class "M" punchboard/pull tab license. They are overseen by a board of 4 officers and three directors; the membership is primarily the parents of the children who attend the day care. Elections were of concern to staff who reviewed this organization. The packet contains a detail of the organizational chart and board tenure. The main program service is providing free or reduced-cost licensed child care, and the offer eight facilities and have a maximum capacity of 423 children. They serve snacks and two meals each day and also provide well-child screenings, immunizations, and vitamins for the children attending these facilities. They also have Evenstart, which is a program that provides child care to parents who are attending literacy classes, and also have received a grant for individualized tutoring for their staff and community members.

One area reviewed by Commission staff was the independent management control structure. The focus was to determine compliance with WAC 230-12-078 that was adopted in January. Some of the activities wouldn't necessarily be applicable for January 1993 but would apply for January 1994. Concerns noted included that fact that the membership had not made a nomination to the board of directors since the inception of the corporation. The organization also did not have adequate records to verify elections. Other concerns include that the board has not closely monitored the transactions and activities of the organization; a loan was made to a board member and they did not ensure that the loan had been repaid at the time of the review, and she anticipates an update on this when they make their presentation today. The organization paid for a trip for the bingo manager and her husband to attend a conference in Nevada after that manager's retirement and termination. They agreed to pay the wages and benefits of this employee after she was relieved of her duties.

Staff also reviewed internal accounting controls and found a reportable condition that was found by the public accountants who reviewed this organization. The concern is that it could adversely affect the ability of the organization to record transactions and to administer federal programs. The issues that brought this to light was the fact that time sheets and reimbursements were not being approved by other parties, they were just submitted and paid for. There were some related-party transactions, some were not disclosed and some were. The law firm Liebler, Ivey, Quigley, and Larsen, was paid for legal services, and Floyd Ivey is a partner in the legal firm and also a member of the EIRF board of directors.

**Ms. Winslow** said the organization has contracted to pay Chris Huether, wife of the organization's president, in an agreement with the Benton School District. Another area has to do with a potential conflict of interest in that the former bingo manager, Phyllis Sandidge, supervised her niece, Cherie Mace. Cherie Mace was subsequently appointed to replace Phyllis as the primary bingo manager. This situation no longer exists because Phyllis Sandidge is the manager that was terminated. The last area was compensation analysis, which was detailed in the written report and is with regard to salary comparisons. Gambling Commission staff compared employees earning more than \$30,000 a year with licensees with similar combined gross receipt levels, and verified compensation paid to management staff in this area. The information was presented for 1993 and projections for 1994. Currently, the organization has two gambling staff members that are paid more than \$30,000 per year. Staff made recommendations to the organization for policy changes and changes to

the organization's independent management control structure.

## **EIRF Presentation**

**Joseph Huether**, president of the board of directors of the Educational Institute for Rural Families, said they welcome this opportunity to present the Commission with information about the organization. The review and recommendations by the Gambling Commission have been found to be good suggestions and nothing they cannot accomplish. He introduced the board members, Floyd Ivey, Minnie Pesina, Mary Pruitt, and Evelyn Walkley. He said the two board members who could not attend are Frank Ochoa and Jan Harlow. The bingo manager, Cherie Mace, and the director of child care, Sara Stephens are also present.

**Mr. Huether** gave a presentation with overheads illustrating the organization's structure. They have two divisions that are relatively separate and independent of each other: one deals with the provision of services and the other deals with gambling activities and income. The board of directors oversees both of the divisions equally.

**Cherie Mace**, bingo manager, said she has been employed by EIRF since 1986 as an assistant bingo manager. She said she has a Bachelor's Degree in business administration and also has management experience in the restaurant industry. In April of 1994 she was appointed as bingo manager for Bingo City. Before the inception of Bingo City, EIRF was facing governmental budget cuts, and Franklin County, as one of the highest agricultural dependent communities, was in need of the services provided by EIRF. They began with a Class "G" license, \$1,500,000 in 1986. In 1990, EIRF purchased a Safeway building and remodeled it to house their bingo game and EIRF offices, and they are now a Class "I" license, which is \$2,500,000. The hall is known for a large playing area, and when they have specials, they can seat more than 700 people. There is a glass-enclosed non-smoking section and two pull tab stations with over 20 games in play. She said Bingo City is known for its snack bar that has a grill and fryer with daily specials. They have experienced both rapid business growth and many changes in the bingo industry. The local Gambling Commission agents and Lacey office staff have been a great source of help when they have had questions or problems.

**Ms. Mace** said they've found it to be a compliment that some of their ideas have been passed on to other halls and helped them alleviate similar problems Bingo City has solved. They are complimented on how friendly their staff is at Bingo City, and the players are important to them. Over the years, more than \$2,500,000 has been raised for EIRF. She said one of the most rewarding elements of her job is seeing what the child care staff have provided quality child care and education to the community.

**Sara Stephens**, Executive Director of program services, said handouts were provided to the Commission and staff that contain both the organizational chart and a detail of both divisions. The mission of the program is to serve the children of migratory, low income, and seasonal farm workers. They have done this through quality child care and services. They are licensed in the eight facilities for a total of 423 children. The display found in the corner of the room shows that the offices are in Pasco and the centers are located in the rural communities surrounding Pasco, and some are as far as 30 miles from the city. This has presented a unique challenge to staff. In 1993, they provided 47,573 child care days of services; and this year they have provided 41,498 child care days of service, which means they are able to serve more children this year. The main funding sources are the Department of Social and Health Services, which is through a seasonal grant; USDA, which primarily funds the food part of the program; Chapter One Migrant, which is through the Office of the Superintendent of Public Instruction; Migrant Headstart and Evenstart.

**Ms. Stephens** said the program has six components that are listed on the handout. She said their child care is provided primarily based on the needs of the families using the services. Since their employment is in the agriculture industry, the needs vary with the type of crops being worked. If the parent works in asparagus, they are expected to be out in the fields at sunrise to cut, so the centers will open at 4:00 a.m. to meet the

needs of those parents. They are also open on Saturdays when the need is there and the funding is available. Preschool is the second component of the program, and they offer a developmentally appropriate preschool program called Creative Curriculum. It is based on the theory of learning through play, with the major focus on language development. Many of the children do not speak English as their native language, so staff work very closely with both English and their native language.

**Ms. Stephens** said the third component is nutrition and meals are provided through a family-style meal service. Health is the next component with free immunizations provided to the families on-site. They also have well-child screenings and referrals to other agencies as needed. There is a registered nurse on staff who teaches the staff about first aid, CPR, HIV/AIDS, which are necessary for child care providers to know about. Transportation is provided only where needed. Parent involvement is the final component of the program, with the focus on parent training. Staff have determined this is a very important area and needs more development in the future. They plan more extensive training with the parents in terms of their roles as members, how the Board functions, and how the members have access to the Board. There are monthly parent meetings where most of this training will take place. They have provided information on the basic programs at each center at the parent meetings, and they have also done parent training in areas of nutrition, parent-child activities, and areas in which the parents have expressed interest in learning more about. They try to have regular activities that include both the parents and their children, such as an annual carnival, graduation ceremonies, and potlucks at special times of the year.

Each center has unique characteristics. The Basin City Center works very closely with the Washington State Migratory Council, which is another child care provider that receives Migrant Headstart funding. They have combined resources to better serve the children in that area. This year, this center has accomplished building a new facility, which meets the growing need for child care in the area. The new center should be ready to open in April 1995 and will hold another 40 or so children. The facility will also be available to the community to use for agriculture meetings and adult classes as well. In the Benton City Center, they have worked closely with the school district on an inclusion grant received through the state involving EIRF, the school district, and Headstart. The grant provides time for planning a program to include all preschool children; so EIRF is looking into the possibility of providing services to not only migrant workers' children but also special needs and other children. The accomplishment in Benton City, as a result of the inclusion grant, is that the school district has purchased property and plans are in the works to develop a preschool complex to house EIRF, Headstart, and the school district's early childhood education program all in one building.

**Ms. Stephens** said that, in the Connell Center, the uniqueness is that it is made up of Laotian, Hispanic and white children. The majority of the other centers serve a majority of Hispanic children. The community has the Coyote Ridge Prison, which is a minimum security prison and several of the children are children of parents serving time at the prison. Because the Connell Center is not full at all times of the year, they can open it up to the community in general. They have licensed one of the churches in this area of infant care, which makes this the first year they've been able to provide infant care in that community.

The last center is the Pasco Center. **Ms. Stephens** said the Hanford Environmental brought together volunteers to repaint murals on their buildings there. They work closely with the farmers at Green Giant and have each year made a trip to Texas along with the school district, the local farmers, and Green Giant staff, to pre-register the families so they know they have the services available when they come here. The accomplishment in Pasco this year was the building of a new center in conjunction with Columbia Basin College by utilizing some state funding to provide services to the children of state employees. The buildings were delivered on Monday.

**Ms. Stephens** said that Bingo City has enabled them to purchase property and buildings in order to provide child care services to the families in need. The primary benefit derived from Bingo City is that it has allowed

EIRF to run its programs and has allowed them to provide additional services to the families. EIRF celebrated providing 20 years of service to seasonal and migrant farm families in 1994, and the goal has been to provide a caring, nurturing environment for children where they can learn new skills and have fun. The smiles on the children's faces prove they are meeting this goal. She presented a slide show set to music.

**Chairman Tull** asked about the overall funding of the organization; **Ms. Winslow** said that was presented at the regular review in Chelan. **Ms. Stephens** said that roughly one third of the program services budget comes from gambling revenues. **Commissioner Heavey** asked how the salaries of EIRF's bingo managers compare to those in other areas around the state in relation to gross income; **Ms. Winslow** said the presentation compared similar licensees in Eastern Washington to make sure it was a representative sampling. She said she would expect it to be similar at operations with the same size games. **Commissioner Heavey** asked if the Commission compares the duties of one bingo manager to another when comparing salaries. **Ms. Winslow** said she has not seen salary information across the state and the staff has not compared duties. **Mr. Bishop** said that in general, EIRF's salaries are lower than what would be found in similar size games in other parts of the state. Ms. Sandidge was paid a considerably higher salary than like others.

**Commissioner Heavey** said he compares administrative personnel salaries between EIRF (\$32,000) and Yakima Valley OIC (\$69,000/\$32,000/\$30,000) and executive director for EIRF (\$44,000) and for Yakima Valley OIC (\$86,000); Spokane Youth Sports is \$58,000 for executive director and Spokane Guild School pays \$59,000 to its executive director. **Mr. Bishop** said Yakima Valley OIC has a scope of three times what most organizations cover with its programs due to other funding sources, such as federal grants, and their program is at \$4.5 million. EIRF's program is at \$1.5 million. **Commissioner Heavey** asked how much they get from bingo; **Mr. Huether** said they get approximately \$450-500,000 of their funding from the bingo operation. **Mr. Bishop** said the Yakima Valley OIC's funding is in the area of 10 percent from gambling. **Director Miller** said there's no way, with the information available, to know if the \$86,000 is representative of \$86,000 worth of duties. **Mr. Bishop** said Commission staff does not get into comparing wages during these reviews because it's a subjective area when dealing with scope of programs. The only thing to relate salary levels to currently is dollars spent, and that may not be a good measure.

**Mr. Huether** said that, within EIRF, salaries are set based in part on length of service or prior years of experience. Sara Stephens came to the organization with college degrees, prior experience, and at the time of the salary evaluation, she had three years at EIRF. Phyllis Sandidge, primary bingo manager, had come to EIRF with more than 20 years of prior bingo experience and had spent eight years with the organization, so her salary was higher. The director positions are nearly equal on each side of the organization, and the directors now get almost the same salaries and have the same amount of time with the agency.

**Commissioner Heavey** asked if they have any personnel policies that define basis for compensation and/or severance, so if someone is looking at it they could determine whether that compensation package was adequate for them. **Mr. Huether** said they don't have written policies on that, but past practices included doing market surveys of comparable salaries in both day care and bingo in the community. Part of the recommendations that have come from the program review is that it would behoove the organization to develop more formal policies and procedures, which they expect to do next year, probably during the annual planning meeting in December. **Commissioner Heavey** asked about related-party transaction guidelines; **Mr. Huether** said they had used the Gambling Commission rules to report those kinds of things, but they did not have internal policies. They plan to develop those soon.

**Chairman Tull** asked how many officers or directors have not had related-party transactions; **Mr. Huether** said that of the seven board members, four had not had any and three had. Some of those had been followed procedurally and had prior approval and review by the board. **Chairman Tull** said related-party transactions should not be prohibited, but what is troublesome is when organizations don't have truly independent boards,

especially since they are in place primarily for the benefit of the charity and not themselves. This is an area in which the Commission does not want to dictate decisions but must make sure the conditions exist for good decision making. **Mr. Huether** said they have had recent discussion at the Board level regarding those instances where the only person available happens to be related to staff members. **Chairman Tull** said the issue of greatest concern to the Commission is when Board members simply take turns feathering each other's nests.

**Commissioner Heavey** asked about the small loan made and then repaid by the person who attended a conference and why the organization didn't just go ahead and pay for the conference if it pertained to her job; **Mr. Huether** said it was construed as a loan after-the-fact by the audit team. The person had received the travel advance for the trip because the organization anticipated paying for her trip, but she then also received support from another source, so she returned the remainder of funds back to the organization. He said EIRF has taken action to resolve almost all of the issues that were raised at the review. **Commissioner Heavey** said the termination package for the former executive director should have included an actual agreement entered into for severance so the Commission could fully understand what it was; whether there was a dispute and this was a buy out or other circumstances, so that it doesn't look like someone is just getting money because they've been around a long time and now want to go off someplace else. **Mr. Huether** said they now realize they need better and more complete documentation regarding a lot of the things that have gone on within the organization.

**Commissioner Heavey** said this type of program is very much needed by the people being served, and they do not get enough facilities and services from society as it is. He said he likes this program and complimented the organization. **Chairman Tull** agreed, and said that when too high a salary is paid that just takes money away from the appropriate purposes of the organization. **Director Miller** said the three salaries and golden parachutes were red flags to the Commission. He praised the programs offered by the organization, which is sound and valid. He asked if the Board is prepared to incorporate or adopt the recommendations made by the audit team; **Mr. Ivey** said he is proud to have been associated with EIRF for many years now and to be involved in providing this type of service to the community. When they were called in for the exit audit, he was surprised and shocked, but found it to be a very valuable tool and embraces it now for them to use to better each area. He said they can adopt each recommendation and implement them with ease, and they should be in place for this next year of operations. Salaries will also be thoroughly reviewed. He said they are a much closer Board now, following the last three months of consideration of these issues. He thanked the Commission for bringing the items to their attention. There is a tremendous growing population of migrant workers in the Benton-Franklin County area with a lot of little kids who need this assistance.

**Mr. Bishop** said that in addition to the recommendations made by staff, he pointed out that WAC 230-12-078 (12), "Bona fide charitable or nonprofit organizations -- Responsibilities -- Independent management controls structure required," was passed last year and became effective the first of the year. All organizations were mailed copies of these rules to give organizations guidelines. He said the Commission staff would be glad to help them with meeting these qualifications. **Mr. Huether** said the Board read that section over today. He said each area of concern regarding money only involved small amounts and are easily corrected. He asked that the Commission act positively with regard to the organization's review and they will be sure to adopt all the recommendations. **Commissioner Heavey** said his interest in helping the migrant farm community dates back to 1967 when he was a legislator. **Mr. Huether** said they have individuals on their Board who have come from the migrant population and are here now to assist others who are in the same situation they once were.

**Chairman Tull** said there will be follow-up by staff on this process to ensure they have corrected the issues. **Mr. Bishop** said it would be helpful if the organization would provide the Commission with written documentation of the new policies when they are available.

**Commissioner Heavey** moved for qualification (in place of the temporary certification granted at the August

meeting) of this organization; **Commissioner Mosbarger** seconded the motion, motion carried with three aye votes. **Chairman Tull** said that organizations had better take seriously the section quoted from WAC 230-12-078, and if that doesn't get the job done, future Commissions will be forced to do even more fine tuning with wage levels and expense ratios. He said he appreciates that as many Board members as possible attend these reviews to answer questions, and he thanked them for coming.

#### **BIG BROTHERS/BIG SISTERS OF SPOKANE, Spokane**

**Mr. Bishop** said this is a charitable organization with a Class "M" bingo license, and a Class "O" punchboard/pull tab license. They have 625 voting members. In addition to regular match program, they have expanded their programs to include one-on-one couples, mother-daughter, little sister, father-son, cross gender, etc. The organization served 105 new matches and 242 matches with 15 employees and 498 volunteers. They made contributions of a little over \$11,000. There were five related-party transactions. Net gambling revenues totaled \$620,708, and they spent \$685,377 in support of their stated purpose. The organization spent 1993 streamlining their technical resources to make existing operations more efficient and thereby better serving their clients in 1994 and beyond. Staff recommends qualification as a charitable organization.

#### **AMERICAN LEGION #68, Bremerton**

**Mr. Bishop** said this is an patriotic organization with a Class "F" bingo license, and two punchboard/pull tab licenses; Class "G" license at the Spruce location, and Class "E" at the Perry location (club location and bingo location). They have 841 voting members and provide a club facility for members seven days a week and maintain a playfield for youth and adult baseball teams. They also provide other services through contributions. They made contributions in the amount of \$1,800. There were no reported related-party transactions and no employees made more than \$30,000. Staff recommends qualification as a patriotic organization.

**Commissioner Mosbarger** asked for the reason they've lost money; **Mr. Bishop** looked at their financial statements and said that organization moved their premiss, which resulted in lost revenue. **Commissioner Mosbarger** said she had heard there was a lot of interior fighting going on and wondered if that was the reason for losing money. **Mr. Bishop** said the organization purchased a building and moved into it during the reporting period. He said he would ask Cally to have someone follow-up with Commissioner Mosbarger on that information.

#### **AMERICAN LEGION #176, Vancouver**

**Mr. Bishop** said this is an patriotic organization with a Class "H" bingo license, and a Class "I" license in punchboards/pull tabs. There are 364 voting members. They provide club facilities for their members and provide the same facilities on an ongoing basis to the community. They provide sports services to veterans and their families. They contributed \$37,802, which is considerable for their size. One employee earned more than \$30,000 and no related-party transactions. Staff recommends qualification as a patriotic organization.

#### **F.O.E. #2, Spokane**

**Mr. Bishop** said this is a fraternal organization with a Class "G" bingo license, a Class "H" license in



punchboards/pull tabs, and Class "D" raffle. There are 7,800 members. They provide club facilities for club members that include weekly health clinics, exercise classes, and parties. They also run an ice rink adjacent to their facility, which is a for-profit enterprise they own. They contributed \$1,340 and had one employee earning more than \$30,000 last year and no related-party transactions reported. Staff recommends qualification as a fraternal organization.

#### **SPOKANE ATHLETIC ROUND TABLE, Spokane**

**Mr. Bishop** said this is an athletic organization. During the reporting period, this group was licensed as Class "K", up to \$3.5 million; but as part of their settlement, they were to downgrade their bingo license to Class "J", which places them as a Group 2. They have 25 voting members and do not provide direct services, they provide services through contributions. For the period of this report, they had \$71,569 in contributions. Through follow-up, subsequent to this report, there have been two areas set up, a trust fund for \$100,000 for Gonzaga University, and they've also made donations to the local area of at least \$100,000. They two reported related-party transactions, and subsequent to the report, the staff discovered an additional one and the organization has been contacted for clarification. This involves Qualchan golf course, and the fact that its manager is on the ART Board, and there were a little more than \$9,000 in clinics provided by this golf course. He said their administrative expenses under program expenditures is out of compliance with the new Gambling Commission guidelines, and the organization has been notified informally of this. Staff is following up with written notification regarding their requirements.

**Mr. Bishop** said the significance of their bingo license downgrade is that it affects their payout net return, but they would be cutting gross receipts by \$500,000 that would equate to about \$100,000 in program money. They also were set, as a part of the agreement, at the level that they were in compliance with. This is the new prize payout and net income rule (WAC 230-20-064) in action. Instead of an administrative action, it's an automatic licensing function. As soon as they demonstrate their game is able to get larger by compliance rather than going to a hearing, although they can petition the Commission directly to go larger.

**Chairman Tull** called for a motion for certification of the above organizations; motion made and seconded, motion carried with three aye votes.

**Chairman Tull** called for an executive session and adjourned the public meeting.

## WASHINGTON STATE GAMBLING COMMISSION

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### MINUTES COMMISSION MEETING FRIDAY, NOVEMBER 18, 1994

**Chairman Tull** called the meeting to order at 10:10 a.m. at the Ridpath Hotel, Spokane, Washington.

**MEMBERS PRESENT:** **ROBERT M. TULL, Chairman; WANDA MOSBARGER, Vice Chair; and EDWARD HEAVEY.**

**OTHERS PRESENT:** **FRANK L. MILLER, Director; BEN BISHOP, Deputy Director; SHERRI WINSLOW, Assistant Director, Field Operations; JONATHAN McCOY, Assistant Attorney General; CARRIE SUTHERLAND, Special Assistant, Public Affairs; and SUSAN GREEN, Executive Assistant.**

**Chairman Tull** said there is an addition to the agenda; Bob Racicot of the Shed Tavern will address the Commission during the Unfinished Business section of the agenda.

### APPROVAL OF THE MINUTES FROM THE OCTOBER 13-14, 1994, MEETING

**Commissioner Heavey** moved for acceptance of the minutes from the October 13-14, 1994, Commission meeting in Leavenworth, Washington, as set forth and printed in the agenda packet; **Commissioner Mosbarger** seconded the motion; motion carried.

### STAFF REPORTS

#### **TRIBAL GAMING -- Compact Negotiations**

**Director Miller** said that during the last four to five months, the Commission has reevaluated its direction with regard to tribal gaming compact negotiations, as requested by Governor Lowry. The new parameters are with regard to scope of gaming and include: increased hours from the current compacts of up to 140 per week, a maximum of \$500 wagering limits, removal of the square footage requirements per hall, and an increased limit on the number of tables up to 50. These changes will be before the Commission on December 16, 1994, in Poulso, in the form of amendments to existing compacts. There are summaries of the compact proposals for the audience members on the back table. He said anyone with comments on these proposals should submit them to the Commission before the hearing on December 16th.

#### **RUMSEY DECISION**

**Director Miller** said that in California, there was a case involving seven Indian tribes that wanted to negotiate black jack banking table games, and slot machines. California law does not authorize table games and believes slot machines are not legal, so California chose not to negotiate those activities. The lower court ruled that table games are not legal in California, but due to all of the gambling in the state, including the

lottery and the use of keno by the lottery, the state had an obligation to negotiate slot machines. That case was appealed to the Ninth Circuit, which ruled this week that no, the state does not have to negotiate slot machines simply because it has a lottery. The Court said that unless the activity is permitted specifically, then there is no obligation to negotiate that activity. The decision has been remanded only on the issue of slot machines to see if the California State Lottery uses slot machines. He said this case is important in that it may help lead to a conclusion to the issue of slot machines in the state of Washington.

**John Beadle**, Seattle Junior Hockey, asked about the time frame for going from phase one to phase two in the local tribal casinos. **Director Miller** said that the new proposal strengthens the regulatory requirements and makes them conditional. Phase one is during the first six months of operation, after which the Commission will review the operation for compliance with the compact, the establishment of a strong and independent tribal gaming agency, and these requirements have to be put into place prior to going to phase two. If the Commission objects to an operation moving forward due to not having a strong tribal gaming agency or if they have numerous violations, the Tribe will be notified and if a solution is not reached, the two parties would go to arbitration for resolution.

**Ron Sellar**, Washington State Licensed Beverage Association, asked about the slot machines in operation now on reservations and asked how long they will be in operation. **Director Miller** said he is hopeful that this court case will cause the issue to be revisited and they will be told to stop. Since the state has no jurisdiction on the two reservations where slot machines are in operation, it will be up to the federal government to take action.

**Director Miller** said there are two new compacts -- Suquamish and Port Gamble -- plus six compact amendments that will be before the Commission at a hearing at 1:00 p.m. on December 16, 1994, at the Poulsbo Fire Hall. The Legislature will hold a joint House and Senate hearing on December 8th. **Chairman Tull** encouraged anyone interested to attend these hearings and/or send comments in writing prior to the hearings.

## **ADOPT OR AMEND RULES**

### **PUNCHBOARDS/PULL TABS**

#### **Amendatory Section WAC 230-30-072**

##### **Punchboard and pull tab inventory and retention requirements**

**Ms. Sutherland** said this rule was presented by staff in conjunction with the commercial operators study group for discussion with final action today, and has an effective date of January 1, 1995. The rule requires charitable and non-profit organizations to retain series for four months, and commercial licensees to retain series for two months, following the last day of the month in which the series was removed from play, with the exception that winning punches or tickets over \$20 must be kept by commercial licensees for 90 days for public record.

#### **Amendatory Section WAC 230-30-075**

##### **Punchboard and pull tab retention restrictions-- Minimum percentage of prizes available ((for certain gambling activities)).**

**Ms. Sutherland** said this is presented by staff for discussion with final action today. The rule clarifies the punchboard/pull tab prize restrictions by adding sub-section four, which will not allow a punchboard or pull-tab series to be sold in the state if the series offers prizes for purchasing the last ticket or punch that exceed \$100 in cash or merchandise. The addition of merchandise was the result of comments at the last Commission meeting. Staff recommends final approval.

**Amendatory Section WAC 230-08-010, Monthly records**

**Repealer WAC 230-30-998**

**Punchboard and Pull Tab Retention Requirements--Test**

**Ms. Sutherland** said this was proposed by staff and requires commercial punchboard and pull-tab operators to complete monthly records within 15 days, rather than 30 days, following the end of the month, and to make these records available to audit or inspection the next day.

**Commissioner Heavey** moved for adoption of the rule above changes; **Chairman Tull** seconded the motion; motion carried with three aye votes.

**LICENSING, BINGO, and PUNCHBOARDS/PULL TABS**

**HOUSEKEEPING CHANGES -- FEE SCHEDULE REFERENCES**

**Amendatory Section WAC 230-04-020**

**Certification Procedure--General Requirements--Mandatory Training Required**

**Amendatory Section WAC 230-04-125**

**Distributor's Representative License May be Reissued When Changing Distributors**

**Amendatory Section WAC 230-04-145 -- Licensing of Managers of Bingo Games**

**Amendatory Section WAC 230-04-260 -- Effect of Exceeding License Class Income Limit**

**Amendatory Section WAC 230-04-290 -- Loss or Destruction of Licenses or Permits**

**Amendatory Section WAC 230-04-310 -- Change of Name**

**Amendatory Section WAC 230-04-320 -- Change of Location**

**Amendatory Section WAC 230-04-325 -- Cancellation, Change of Time, Date, or Location of Fund Raising Event**

**Amendatory Section WAC 230-04-340 -- Transfer of Licenses--Conditions**

**Amendatory Section WAC 230-04-350 -- Death or Incapacity of Licensee**

**Amendatory Section WAC 230-20-064 -- Maximum Receipts, Prizes, and Expenses for Bingo Games--Net Income Required**

**Amendatory Section WAC 230-30-016 -- Replacement of Commission Identification Stamps on Pull Tab Dispensing Devices**

**Chairman Tull** said these items are all housekeeping changes with final action today. **Mr. Bishop** said there is an error in table one on page five; Class "A" bingo license should read "up to \$15,000" instead of \$10,000. Class "B" should be "\$15,001-\$50,000." **Commissioner Heavey** made a motion to include this change; **Chairman Tull** seconded the motion; motion carried with three aye votes to make the change as amended. **Commissioner Mosbarger** moved to adopt the new fee schedule as amended; **Commissioner Heavey** seconded the motion; motion carried with three aye votes.

## **WAC 230-20-242 -- Activities conducted as part of a bingo game -- Authorizations -- Restrictions**

**Ms. Sutherland** said this was presented by staff in conjunction with the Washington Civic and Charitable Gaming Association and amends the rule to allow bingo operators to conduct drawings as long as the tickets from which the winners of these drawings are selected are not accumulated for more than 30 days. Staff recommends final adoption.

**Commissioner Heavey** moved for adoption; **Commissioner Mosbarger** seconded the motion; motion carried with three aye votes.

## **PETITION**

### **Amendatory Section WAC 230-04-190 -- Issuance of License**

### **New Section WAC 230-04-XXX -- Notification of Local Taxing Authority**

### **Amendatory Section WAC 230-04-400 -- Denial, Suspension or Revocation of Licenses**

**Chairman Tull** said this petition was presented at the Leavenworth meeting and will be discussed today. It will be up for final action at the January meeting in SeaTac. **Ms. Sutherland** said there is an addendum to the petition that is available on the back table and in the commissioners' packets. She said the amendments were worked out with the petitioners. WAC 230-04-190 is being withdrawn and is no longer part of this petition. Instead of requiring licensees to comply with the local taxing laws in order to become licensed, the Commission will modify its licensing application to include an affirmation by the applicant that they have been current on local gambling taxes. The new section originally proposed as WAC 230-04-285, which was notification of taxing authorities, will be placed in a different rule.

**Ms. Sutherland** said the addendum to the petition, **WAC 230-04-280**, will be amended to state that licensees will notify law enforcement and local taxing authorities. The Treasurers Association, along with staff, has agreed to modify this rule because the rule the Association put forth was essentially a model of WAC 230-04-280. Staff recommends further discussion of this rule. Another change is in **WAC 230-04-400**, which has been amended in section (3) to include the failure to make required gambling tax payments as a reason for denial, suspension or revocation of a license. Staff recommends further discussion of this rule.

**WAC 230-50-010 -- Brief adjudicative proceedings**, will be amended to include hearings held pursuant to WAC 230-04-400 (3) -- Failure to pay required gambling taxes -- as proceedings that should go through the brief adjudicative proceedings process. Staff recommends further discussion.

**Linda Wolverton**, Spokane County Treasurer, said they presently have no way to back up the collection of local gambling taxes, and they also have a very difficult time knowing who in their jurisdiction has gambling and should be paying taxes. She'd like to see the Gambling Commission notify the local taxing authorities of who has gambling, and also provide a way for them to notify the Commission when a licensee has not complied with local tax laws or if they report no gambling activity. They also want the possibility of revoking a license if the licensee does not comply with local taxes. She said it's unfair that honest operators are having to compete with those who do not pay their gambling taxes.

**Commissioner Heavey** said the rule does not state that the Commission must notify local taxing authorities; **Ms. Sutherland** said the Commission has agreed to notify local law enforcement and taxing authorities without a rule change.

**Mary Dodge**, Douglas County Treasurer and President of the Washington State Association of County Treasurers, said she's been working closely this last month with Amy Blume of the Gambling Commission staff regarding some of these changes, and the Association has already sent her a list of all the counties that collect gambling taxes along with the contact names of the people who collect gambling taxes. The people on the list

will begin receiving the lists of new licenses each month. The Association is very much in support of these rule changes.

**Ron Sellar**, Washington State Licensed Beverage Association, said he does not think the Gambling Commission should be involved in enforcing local gambling tax laws because the areas in the state that do not already charge taxes may feel compelled to start taxing.

**Chairman Tull** asked about the issue of charges assessed to the Commission by local law enforcement; **Director Miller** said local law enforcement is presently used by the Commission as a source for background checks as an additional screening tool, and they are authorized to charge for this service. Some law enforcement agencies charge \$10 per background check. One reason for using the service more now is because more background checks are needed to process Class III gaming applications, and that money is reimbursed by the Tribe, so more thorough research must be done to determine the exact amount of money paid out for other background checks that are not for the tribal operations and therefore are not reimbursed by tribes.

**Commissioner Heavey** moved to refile this petition with the amendments; **Commissioner Mosbarger** seconded the motion; motion carried. **Ms. Sutherland** said that the agenda includes a copy of the questionnaire sent out to the local taxing authorities and there has been a very good response. The results are summarized in the Commissioners' packets. There have been 71 responses received, and the Commission could receive 49 cases if the rule changes were to pass. **Commissioner Heavey** noted that King County did not respond to the questionnaire. He said they should be responding since they were the driving force behind this petition in the first place; **Ms. Dodge** said she would contact them and make sure they respond. **Ms. Sutherland** said responses are still being received and will be available to the commissioners and the public at the January meeting.

## **UNFINISHED BUSINESS**

**Chairman Tull** said the commissioners have a copy of the letter received in November from Mr. Racicot. They also have a summary of the case. He told Mr. Racicot that he could not guarantee any action on this issue today, but he would be heard.

**Mr. Bob Racicot, The Shed Restaurant** said the fine levied on him by the Commission he understood to be in accordance with the amount of sales he was making on the card room at the time of the violation. He said he can no longer generate the amount of money he was making at that time and may close the card room. He asked if he could be allowed to keep his pull tabs and fish bowls in the event he closed down his card room. He said it doesn't make sense to close the card room because he will be putting people out of work, but he cannot afford to pay the fine. If the fine was based on present sales, he might be feasible for him to keep the card room open. He asked the Commission to possibly restructure the fine so he might keep the card room open, or allow him to keep the pull tabs and fish bowls if he does have to close the card room. He gave a list to the commissioners of profit and loss statements on the card rooms from June through September for review.

**Chairman Tull** said the Commission asks that this matter be submitted to Mr. McCoy, the Commission's attorney, for a procedural response to this question. He can recommend steps to take, which will include any form of motion or petition if that comes about. Mr. McCoy will be in contact with the Commission and with the licensee or his attorney to obtain more background information. If the information is available in January, this issue may be taken up in SeaTac at the next Commission meeting.

**Chairman Tull** said the commissioners have decided on meeting locations for the final half of 1995; July will be in Silverdale, August in Chelan, September in Bellingham, October in Tri Cities, and November in Seattle.

**NOTE: THESE PRINTED MINUTES PLUS THE TAPES CONSTITUTE THE FULL MINUTES.**

Susan D. Green  
Executive Assistant